

2009 DRAFTING REQUEST

Bill

Received: **09/19/2008**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-2288**

By/Representing: **Grimsrud**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - misc**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Grimsrud, BB0033 -

Topic:

TANF-related fraud investigation funding and overpayment recovery

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 09/24/2008	wjackson 09/25/2008		_____			S&L
/P1			phenry 09/26/2008	_____	cduerst 09/26/2008		S&L
/1	pkahler 02/09/2009	wjackson 02/10/2009	phenry 02/11/2009	_____	mbarman 02/11/2009		

FE Sent For:

<END>

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/?	pkahler 09/24/2008	wjackson 09/25/2008		_____			S&L
/P1		<i>lwjzlw</i> phenry 09/26/2008		<i>[Signature]</i> _____	cduerst 09/26/2008		

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/?	pkahler	/pl wlj 9/25	g ph	g ph/jk			
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FE Sent For:

<END>

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: TANF Related Fraud Investigation Funding & Overpayment Recovery
- Tracking Code: BB0033
- SBO team: Education, Children & Families
- SBO analyst: Sarah Grimsrud
 - Phone: 266-2288
 - Email: Sarah.Grimsrud@Wisconsin.gov
- Agency acronym: DCF
- Agency number: 437
- Priority (Low, Medium, High): High

Intent:

The structure created in 2007 Act 20, providing for counties or tribes that establish their own programs to investigate "suspected fraud" in the W-2 and child care programs and retain 50% of the funds they recover from a proven fraud case in the first month that they recover any, and 44% of the funds they recover in the second month after they recover any, appear to put the state at risk of being held liable in a future federal audit finding, depending on what the counties do with the proceeds.

The requested changes in statutory language aim at clearing the state of any liability in a future federal audit finding.

Statutory Modifications:

Department of Children and Families 2009-11 Biennial Budget

DIN: 5400

Topic: TANF-related fraud investigation funding and overpayment recovery

Description of Change:

1. Repeal the appropriation under s.20.437 (2) (g).
2. Modify s.49.197 (2) (b), to retain authorization for counties and tribes to investigate suspected fraudulent activity on the part of participants in the Wisconsin Works (W-2) and Wisconsin Shares programs; however, provide that counties and tribal units establishing such a program shall notify DHS and DCF of the date their programs began or begin. Modify current-law provisions for county or tribal retention of a portion of recovered funds for a two-month window from the time their programs begin to instead conform to existing state and federal requirements for the accounting treatment of recovered block-grant-related overpayments. Create alternate provisions, consistent with federal requirements that recovered block-grant funds be used for TANF cash assistance, to reward counties and tribal governing bodies making such recoveries.
3. Repeal s.49.197 (2) (d) which requires DCF to use certain receipts remitted by counties for W-2 and others for child care (these provisions may create federal compliance issues).
4. Modify the intro to s.49.197 (1m) to delete an incorrect reference to the appropriation under s.20.437 (2) (n) ("Child support, state operations") and insert references to s.20.437 (2) (mc) and (me), which are potentially related to the activities.
5. Amend the purpose clause of the definition of the appropriation at s.20.437 (2) (L) as follows: "...for any contracts under s.49.845 (4) and for any activities ~~to reduce error and fraud~~ under s.49.197 (1m) to investigate fraud relating to the Aid to Families with Dependent Children program and the Wisconsin Works program, for any activities under s.49.197 (3) to reduce payment errors in the Wisconsin Works program, and for costs associated with collection of public assistance overpayments."

Justification:

Wisconsin funds W-2 and Child Care benefits from a variety of state and federal sources, including federal TANF funds. Under these and other public assistance programs, a person may occasionally receive benefits who should not have, or may receive more than the correct amount (or, in the case of child care subsidies, receive the benefit of a higher payment to their provider). These circumstances can arise due to error by the administering agencies, error by child care providers, or intentional misrepresentations, which if legally proven, may constitute fraud.

The federal government requires states to take measures to promote accuracy in benefit payments and to recover any overpayments that are made. In programs based on a federal-state match rate (AFDC, MA, and Food Share) the federal government generally requires states to split any recovered overpayments with it according to the appropriate program match rate. However, under the TANF program, DHHS's Administration for Children and Families (ACF) provides 3 options: 1) Refund the fund sources originally used for the payment in exact amounts, 2) Refund the fund sources according to their average use for the entire FFY or years of the overpayment, or 3) Treat all recoveries as though they were TANF funds. Because of Wisconsin's extensive use of TANF within the W-2 and Child Care programs, DCF generally uses this treatment. Use of the other methods is administratively impractical and, if practical, would require lapsing refunds of prior-year GPR and federal child-care funds. TANF funds, on the other hand, can be retained and carried forward; however, they can only be used for cash assistance (W-2, Kinship Care, and Caretaker Supplement benefits).

In order to ensure compliance with federal guidance related to AFDC and TANF overpayment recoveries, as well as state law and Legislative Audit Bureau concerns with previous practices, in the 2005-2007 biennial budget, the statutory definition of federal funds was amended to encompass these receipts and a federal-funds appropriation was created, now in DCF's budget at s.20.437 (2) (me), to receive all recovered TANF and Child Care overpayments. Approximately \$3.4 million was received in this appropriation in SFY 07 and \$2.9 million in SFY 08. The majority of this revenue is child-care related, recovered from program participants and providers. These child-care-related recoveries are assumed to have been originally funded with TANF funds and to assure federal compliance are, when recovered, used for TANF cash assistance, normally W-2 benefits. Child care benefits indirectly since both are included in the overall TANF budget. As a result of the new provision created in 2007 Wisconsin Act 20 at s.49.197 (2), counties and tribal governing bodies may retain an unknown and unpredictable amount of revenue that would otherwise have been credited to the appropriation account at s.20.437 (2) (me).

Current state law (s.49.197) requires DCF to use its main TANF aids and MOE appropriations, including AFDC collections, to "establish a program to investigate suspected fraudulent activity on the part of recipients of [AFDC, W-2 (including Wisconsin Shares child care subsidies) and, if DHS contracts with DCF for the service, MA, SSI, and Food Share]." A parallel law (s.49.845) requires DHS to do the same for its programs and, if DCF contracts with it, AFDC and W-2 (including Wisconsin Shares). In addition, state law [s.49.195 (3)] provides that counties, tribes, W-2 agencies, and the department shall determine whether an overpayment was made in AFDC, or W-2 (including transportation assistance or Job Access Loans) and child care assistance, and if so, "the department shall promptly recover all overpayments made...."

The Department maintains a Public Assistance Collections Unit (PACU) that coordinates these collection efforts as well as collections for DHS. In general, counties and W-2 agencies perform "claims-establishment" activities (documenting in the CARES system the amounts due) and PACU uses centralized tools to collect, ranging from sending "dunning letters" to establishing liens and levies against property owned by the debtor. One of the most effective and frequently used collections tools is to notify DOR to intercept a state tax refund otherwise due to a person that owes DCF or DHS.

DCF pays DHS for its statutorily required effort to reduce payment errors and investigate fraud in AFDC, W-2, and Child Care. The 2007-09 biennial budget allocated \$605,300/year within the TANF budget for these activities.

2007 Wisconsin Act 20 (the biennial budget) included a provision authorizing a county or tribal governing body to "establish a program to investigate suspected fraudulent activity on the part of participants in the Wisconsin Works program...including persons receiving a child care subsidy...and to recover incorrect payments made or incorrect benefits provided as a result of fraudulent activity. The statute [s.49.197 (2)] further provides that the county or tribe shall pay to DCF 50% "of all amounts recovered as a result of its program during the first month in which it recovers any amounts...[and 66%]...during the 2nd month in which it recovers any amounts as a result of its program [and 100%] ...after the 2nd month in which it recovers any amounts as a result of its program." DCF is to credit any amounts received to a specific appropriation account under s.20.437 (2) (g). In addition, in the event DCF receives any such moneys, it is required to use the amounts recovered as a result of fraud in the W-2 program, other than a child care subsidy, for W-2 purposes other than child care, and required to use the amounts recovered as a result of fraud in the child care subsidy program for the child care subsidy program.

While several state-law precedents exist for county "retention" of recovered overpayments as "incentives" to make the recoveries, the federal DHHS will not participate in the cost to pay local units of government incentives that are established as arbitrary percentages unrelated to their actual costs. Instead, the federal government generally will allow actual local costs to be reported for reimbursement from the federal programs, at the same match rate for the match programs, or within TANF and child care administrative allowances. Alternatively, the incentives are paid from the state share of recoveries (for programs based on a federal-state cost share or match, such as AFDC, Food Share, and Medical Assistance).

As a result, the structure created in 2007 Act 20, providing for counties or tribes that establish their own programs to investigate "suspected fraud" in the W-2 and child care programs and retain 50% of the funds they recover from a proven fraud case in the first month that they recover any, and 44% of the funds they recover in the second month after they recover any, appear to put the state at risk of being held liable in a future federal audit finding, depending on what the counties do with the proceeds. It is unclear what collection methods counties making recoveries under s.49.197 (2) may use or how they would be coordinated with other existing programs and mechanisms. More problematic, the local share is unrelated to any demonstrated costs but solely to the chronological time period in which a recovery is made after the time in which any amount is recovered, as well as incentive-like percentages established in the statutes. The statute does not require counties and tribes to re-invest the funds in the TANF and child care subsidy programs, or to report to DCF how they are used. Moreover, not all counties administer W-2 cash benefits, the "safest" use of recovered block-grant funds in terms of federal compliance.

Although the statute does provide for any funds remitted to the state to be used for the W-2 and child care programs, it is unworkable as written because the child-care portion is not allowed to be used for TANF cash assistance, but only for child care subsidies. Nevertheless, in the event DCF does receive any money from the new, separate county fraud-investigation

programs, it does not need the newly created program-revenue appropriation to receive and expend the funds. Since all recoveries contemplated by the new statute would be TANF-related, DCF could simply use the previously created federal-funds appropriation to account for them, and the new PR appropriation could be repealed as unnecessary.

While it is unclear how many counties may opt to pursue fraud-investigation programs, successfully establish that fraud (showing intent, rather than merely an erroneous overpayment) occurred, successfully recover funds, and retain the specified percentages for the first two months after they recover any amount, this arrangement would—if successful—reduce the W-2 and child care recoveries that would otherwise be available to DCF for expenditure on TANF cash assistance. Based on recent years' experience, the federal-funds appropriation for these recoveries could be estimated upward by \$305,100 in SFY 10 and \$335,100 in SFY 11. However, this growth might not occur if counties retain funds they otherwise would have helped the Department recover.

An alternative to unrestricted GPR payments to counties and tribes would be to allow them to retain the collections but require them to use them for W-2 benefits. This could benefit counties with W-2 contracts, but not other counties. Another alternative would be to increase the allocation in the TANF budget for the W-2 and child-care portion of activities under the statewide public assistance fraud program administered by DHS.

Any proposal to modify current law should provide for notice by counties administering fraud-investigation programs to both DCF and DHS, including when the effort begins and when any amounts are received. In addition, it should eliminate the requirement for DWD to segregate its receipts by child-care related and W-2-related recoveries, and eliminate the separate appropriation for receipts under this statute. The appropriation is redundant with, and contrary to the philosophy behind the creation and use of, s.20.437 (2) (me).

While modifying s.49.197 (2), the intro to s.49.197 (1m) should be amended to delete a reference to the child-support state operations appropriation, which would not be used for the activities mentioned, and to insert references to other block-grant-related appropriations. Similarly, the purpose-clause of the appropriation under s.20.437 (2) (L) should be amended to reflect the creation of s.49.197 (2) in 2007 Wisconsin Act 20. The current-law reference to "any activities to reduce error and fraud under s.49.197" is too broad, because it should not encompass the county activities authorized under s.49.197 (2). Instead, it should refer to the statewide program that predated the creation of that subsection, including investigation of AFDC and Wisconsin Works fraud under s.49.197 (1m) and activities to reduce payment errors under s.49.197 (3).

Desired Effective Date: Upon Passage of Bill



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0316/

PJK:.....

P1
WJ

DOA:.....Grimsrud, BB0033 - TANF-related fraud investigation funding
and overpayment recovery

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

D-note
(= 9-24)

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1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

WISCONSIN WORKS

Under current law, DCF ~~is required to~~ ^{must} establish a program to investigate suspected fraudulent activity on the part of participants in the Wisconsin Works program (W-2). Counties and tribal governing bodies ~~are authorized to~~ establish programs to investigate suspected fraudulent activity on the part of W-2 participants. If a county or tribal governing body establishes a program and recovers any moneys, it must pay to DCF 50 percent of the amount that it recovers in the first month of the program's operation, 66 percent of the amount that it recovers in the second month, and all amounts recovered after the second month. Current law does not specify how a county or tribal governing body is to use recovered amounts that it retains, but DCF ~~is required to~~ ^{must} use recovered moneys received from a county or tribal governing body for W-2.

This bill provides that a county or tribal governing body that establishes a program to investigate suspected fraudulent activity on the part of W-2 participants must advise DCF and DHS of the date on which the program was established and of any amounts that are recovered under the program. Any amounts that are recovered may be retained by the county or tribal governing body and must be used

to pay cash benefits to W-2 participants. The bill also makes minor modifications to the DCF appropriation accounts to which fraud investigation recoveries are credited and from which fraud investigation activities are paid.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.437 (2) (g) of the statutes is repealed.

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

2 **SECTION 2.** 20.437 (2) (L) of the statutes is amended to read:

3 20.437 (2) (L) *Public assistance overpayment recovery and, fraud investigation,*
4 *and error reduction.* All moneys received as the state's share of the recovery of
5 overpayments and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s.
6 49.195, 1997 stats., for any contracts under s. 49.845 (4) and, for any activities to
7 reduce error and fraud under s. 49.197 (1m) to investigate fraud relating to the Aid
8 to Families with Dependent Children program and the Wisconsin Works program,
9 for any activities under s. 49.197 (3) to reduce payment errors in the Wisconsin Works
10 program, and for costs associated with collection of public assistance overpayments.

History: 2007 a. 20 ss. 331, 335, 340, 341, 342, 344 to 352, 354 to 368g, 374 to 376, 380, 381, 401, 404, 405, 423 to 437, 447, 448, 450, 451, 453, 453p, 454, 456 to 458, 460e, 463, 465 to 472, 474 to 480, 9121 (6) (a).

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

11 **SECTION 3.** 49.197 (1m) of the statutes is amended to read:

12 49.197 (1m) FRAUD INVESTIGATION. From the appropriations under s. 20.437 (2)
13 (dz), (kx), (L), (mc), (md), (~~n~~) (me), and (nL), the department shall establish a program
14 to investigate suspected fraudulent activity on the part of recipients of aid to families
15 with dependent children under s. 49.19, on the part of participants in the Wisconsin
16 Works program under ss. 49.141 to 49.161, and, if the department of health services
17 contracts with the department under sub. (5), on the part of recipients of medical

1 assistance under subch. IV, food stamp benefits under the food stamp program under
 2 7 USC 2011 to 2036, supplemental security income payments under s. 49.77,
 3 payments for the support of children of supplemental security income recipients
 4 under s. 49.775, and health care benefits under the Badger Care health care program
 5 under s. 49.665. The department's activities under this subsection may include, but
 6 are not limited to, comparisons of information provided to the department by an
 7 applicant and information provided by the applicant to other federal, state, and local
 8 agencies, development of an advisory welfare investigation prosecution standard,
 9 and provision of funds to county departments under ss. 46.215, 46.22, and 46.23 and
 10 to Wisconsin Works agencies to encourage activities to detect fraud. The department
 11 shall cooperate with district attorneys regarding fraud prosecutions.

12 **History:** 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16; 2005 a. 25; 2007 a. 20 ss. 1465 to 1466, 9121 (6) (a).

13 **SECTION 4.** 49.197 (2) (c) (intro.) of the statutes is renumbered 49.197 (2) (c) and

14 amended to read:

strike extra space

15 49.197 (2) (c) If a A county or tribal governing body that establishes a program

strike comma, too

16 under par. (b), ~~the county or tribal governing body shall pay to the department all of~~

17 ~~the following:~~ shall advise both the department and the department of health

18 services of the date on which the program was established and, on an ongoing basis,

19 of any amounts recovered as a result of the program. A county or tribal governing

20 body may retain any amounts recovered under a program under this subsection and

must
retained
use the moneys ~~received~~ to pay cash benefits to Wisconsin Works participants.

21 **History:** 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16; 2005 a. 25; 2007 a. 20 ss. 1465 to 1466, 9121 (6) (a).

22 **SECTION 5.** 49.197 (2) (c) 1. of the statutes is repealed.

23 **SECTION 6.** 49.197 (2) (c) 2. of the statutes is repealed.

24 **SECTION 7.** 49.197 (2) (c) 3. of the statutes is repealed.

SECTION 8. 49.197 (2) (d) of the statutes is repealed.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-03167dn
PJK.....

PI
WJ

Date

This version of the draft allows counties and tribal governing bodies to keep any moneys recovered as a result of their fraud investigation programs and requires them to use the moneys for W-2 cash benefits. This was one of the options suggested; you may prefer a different treatment of the recoveries.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0316/P1dn
PJK:wlj:ph

September 26, 2008

This version of the draft allows counties and tribal governing bodies to keep any moneys recovered as a result of their fraud investigation programs and requires them to use the moneys for W-2 cash benefits. This was one of the options suggested; you may prefer a different treatment of the recoveries.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

2-9

Sarah Grinnel

redraft LRB-0316 so that the entity

that establishes the program's

the county dept, W-2 agency, or tribal

governing body that administers

W-2



stays → v mis run

DOA:.....Grimsrud, BB0033 - TANF-related fraud investigation funding and overpayment recovery

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

do not get cut

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county

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1 AN ACT ...; relating to: the budget.

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This bill provides that a county or tribal governing body that establishes a program to investigate suspected fraudulent activity on the part of W-2 participants must advise DCF and DHS of the date on which the program was established and of any amounts that are recovered under the program. Any amounts that are recovered may be retained by the county or tribal governing body and must be used to pay cash benefits to W-2 participants. The bill also makes minor modifications

department W-2 agency

administers W-2 investigate fraud under W-2 and if it

department of human or social services W-2 agency

to the DCF appropriation accounts to which fraud investigation recoveries are credited and from which fraud investigation activities are paid.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.437 (2) (g) of the statutes is repealed.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

2 **SECTION 2.** 20.437 (2) (L) of the statutes is amended to read:

3 20.437 (2) (L) *Public assistance overpayment recovery ~~and~~, fraud investigation,*
4 *and error reduction.* All moneys received as the state's share of the recovery of
5 overpayments and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s.
6 49.195, 1997 stats., for any contracts under s. 49.845 (4) ~~and~~, for any activities to
7 ~~reduce error and fraud~~ under s. 49.197 (1m) to investigate fraud relating to the Aid
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15 with dependent children under s. 49.19, on the part of participants in the Wisconsin
16 Works program under ss. 49.141 to 49.161, and, if the department of health services
17 contracts with the department under sub. (5), on the part of recipients of medical
18 assistance under subch. IV, food stamp benefits under the food stamp program under

1 7 USC 2011 to 2036, supplemental security income payments under s. 49.77,
 2 payments for the support of children of supplemental security income recipients
 3 under s. 49.775, and health care benefits under the Badger Care health care program
 4 under s. 49.665. The department's activities under this subsection may include, but
 5 are not limited to, comparisons of information provided to the department by an
 6 applicant and information provided by the applicant to other federal, state, and local
 7 agencies, development of an advisory welfare investigation prosecution standard,
 8 and provision of funds to county departments under ss. 46.215, 46.22, and 46.23 and
 9 to Wisconsin Works agencies to encourage activities to detect fraud. The department
 10 shall cooperate with district attorneys regarding fraud prosecutions.

Insert 3-10

11 SECTION 4. 49.197 (2) (c) (intro.) of the statutes is renumbered 49.197 (2) (c) and
 12 amended to read:

SCITE → departments, Wisconsin Works agency

13 49.197 (2) (c) If a county or tribal governing body that establishes a program
 14 under par. (b), ~~the county or tribal governing body shall pay to the department all of~~
 15 ~~the following:~~ shall advise both the department and the department of health
 16 services of the date on which the program was established and, on an ongoing basis,
 17 of any amounts recovered as a result of the program. A county or tribal governing
 18 body may retain any amounts recovered under a program under this subsection and
 19 must use the moneys retained to pay cash benefits to Wisconsin Works participants.

20 SECTION 5. 49.197 (2) (c) 1. of the statutes is repealed.

21 SECTION 6. 49.197 (2) (c) 2. of the statutes is repealed.

22 SECTION 7. 49.197 (2) (c) 3. of the statutes is repealed.

23 SECTION 8. 49.197 (2) (d) of the statutes is repealed.

24 SECTION 9308. Initial applicability; Children and Families.

(title), (b),

1 (1) FRAUD INVESTIGATION RECOVERIES. The treatment of sections 20.437 (2) (g)
2 and 49.197 (2) (c) (intro.), 1., 2., and 3. and (d) of the statutes first applies to moneys
3 recovered by a county or tribal governing body on the effective date of this subsection.

4 (END)

Department Wisconsin Works agency

No F

*the renumbering and amendment
of section 490197(2)(a) of the
statutes and the creation of section
490197(2)(a) 10 of the statutes
first apply*

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0316/lins
PJK:.....

INSERT 3-10

1 **SECTION ~~1~~** 49.197 (2) (title) of the statutes is amended to read:
2 49.197 (2) (title) ~~FRAUD LOCAL FRAUD INVESTIGATION BY COUNTIES AND TRIBAL~~
3 ~~GOVERNING BODIES.~~

4 History: 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16; 2005 a. 25; 2007 a. 20 ss. 1465 to 1466, 9121 (6) (a).
5 **SECTION 2.** 49.197 (2) (a) of the statutes is renumbered 49.197 (2) (a) (intro.)

6 and amended to read:

7 ⑥ 49.197 (2) (a) ^(intro.) In this subsection, “tribal:
8 2. “Tribal governing body” means an elected governing body of a federally
9 recognized American Indian tribe.

10 History: 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16; 2005 a. 25; 2007 a. 20 ss. 1465 to 1466, 9121 (6) (a).
11 **SECTION 3.** 49.197 (2) (a) 1. of the statutes is created to read:

12 49.197 (2) (a) 1. “County department” means a county department under s.
13 46.215, 46.22, or 46.23. ^{extend strike}

14 **SECTION 4.** 49.197 (2) (b) of the statutes is amended to read:

15 49.197 (2) (b) ^{extend strike} ~~A~~ If a county department, Wisconsin Works agency, or tribal
16 governing body administers the Wisconsin Works program, the county department,
17 Wisconsin Works agency, or tribal governing body may establish a program to
18 investigate suspected fraudulent activity on the part of participants in the Wisconsin
19 Works program under this subchapter, including persons receiving a child care
 subsidy under s. 49.155, and to recover incorrect payments made or incorrect
 benefits provided as a result of fraudulent activity.

History: 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16; 2005 a. 25; 2007 a. 20 ss. 1465 to 1466, 9121 (6) (a).
(END OF INSERT 3-10)



DOA:.....Grimsrud, BB0033 - TANF-related fraud investigation funding
and overpayment recovery

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

WISCONSIN WORKS

Under current law, DCF must establish a program to investigate suspected fraudulent activity on the part of participants in the Wisconsin Works program (W-2). Counties and tribal governing bodies may establish programs to investigate suspected fraudulent activity on the part of W-2 participants. If a county or tribal governing body establishes a program and recovers any moneys, it must pay to DCF 50 percent of the amount that it recovers in the first month of the program's operation, 66 percent of the amount that it recovers in the second month, and all amounts recovered after the second month. Current law does not specify how a county or tribal governing body is to use recovered amounts that it retains, but DCF must use recovered moneys received from a county or tribal governing body for W-2.

This bill provides that a county department of human or social services, W-2 agency, or tribal governing body that administers W-2 may establish a program to investigate fraud under W-2, and if the county department, W-2 agency, or tribal governing body does, it must advise DCF and DHS of the date on which the program was established and of any amounts that are recovered under the program. Any amounts that are recovered may be retained by the county department, W-2 agency,

or tribal governing body and must be used to pay cash benefits to W-2 participants. The bill also makes minor modifications to the DCF appropriation accounts to which fraud investigation recoveries are credited and from which fraud investigation activities are paid.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.437 (2) (g) of the statutes is repealed.

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

2 **SECTION 2.** 20.437 (2) (L) of the statutes is amended to read:

3 20.437 (2) (L) *Public assistance overpayment recovery and, fraud investigation,*
4 *and error reduction.* All moneys received as the state's share of the recovery of
5 overpayments and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s.
6 49.195, 1997 stats., for any contracts under s. 49.845 (4) and, for any activities to
7 reduce error and fraud under s. 49.197 (1m) to investigate fraud relating to the Aid
8 to Families with Dependent Children program and the Wisconsin Works program,
9 for any activities under s. 49.197 (3) to reduce payment errors in the Wisconsin Works
10 program, and for costs associated with collection of public assistance overpayments.

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

11 **SECTION 3.** 49.197 (1m) of the statutes is amended to read:

12 49.197 (1m) FRAUD INVESTIGATION. From the appropriations under s. 20.437 (2)
13 (dz), (kx), (L), (mc), (md), (n) (me), and (nL), the department shall establish a program
14 to investigate suspected fraudulent activity on the part of recipients of aid to families
15 with dependent children under s. 49.19, on the part of participants in the Wisconsin
16 Works program under ss. 49.141 to 49.161, and, if the department of health services
17 contracts with the department under sub. (5), on the part of recipients of medical

1 assistance under subch. IV, food stamp benefits under the food stamp program under
2 7 USC 2011 to 2036, supplemental security income payments under s. 49.77,
3 payments for the support of children of supplemental security income recipients
4 under s. 49.775, and health care benefits under the Badger Care health care program
5 under s. 49.665. The department's activities under this subsection may include, but
6 are not limited to, comparisons of information provided to the department by an
7 applicant and information provided by the applicant to other federal, state, and local
8 agencies, development of an advisory welfare investigation prosecution standard,
9 and provision of funds to county departments under ss. 46.215, 46.22, and 46.23 and
10 to Wisconsin Works agencies to encourage activities to detect fraud. The department
11 shall cooperate with district attorneys regarding fraud prosecutions.

12 **SECTION 4.** 49.197 (2) (title) of the statutes is amended to read:

13 49.197 (2) (title) ~~FRAUD LOCAL FRAUD INVESTIGATION BY COUNTIES AND TRIBAL~~
14 ~~GOVERNING BODIES.~~

15 **SECTION 5.** 49.197 (2) (a) of the statutes is renumbered 49.197 (2) (a) (intro.)
16 and amended to read:

17 49.197 (2) (a) (intro.) In this subsection, "~~tribal~~:"

18 2. "Tribal governing body" means an elected governing body of a federally
19 recognized American Indian tribe.

20 **SECTION 6.** 49.197 (2) (a) 1. of the statutes is created to read:

21 49.197 (2) (a) 1. "County department" means a county department under s.
22 46.215, 46.22, or 46.23.

23 **SECTION 7.** 49.197 (2) (b) of the statutes is amended to read:

24 49.197 (2) (b) ~~A~~ If a county department, Wisconsin Works agency, or tribal
25 governing body administers the Wisconsin Works program, the county department,

1 Wisconsin Works agency, or tribal governing body may establish a program to
2 investigate suspected fraudulent activity on the part of participants in the Wisconsin
3 Works program under this subchapter, including persons receiving a child care
4 subsidy under s. 49.155, and to recover incorrect payments made or incorrect
5 benefits provided as a result of fraudulent activity.

6 **SECTION 8.** 49.197 (2) (c) (intro.) of the statutes is renumbered 49.197 (2) (c) and
7 amended to read:

8 49.197 (2) (c) ~~If a~~ A county department, Wisconsin Works agency, or tribal
9 governing body that establishes a program under par. (b), the county or tribal
10 governing body shall pay to the department all of the following: shall advise both the
11 department and the department of health services of the date on which the program
12 was established and, on an ongoing basis, of any amounts recovered as a result of the
13 program. A county department, Wisconsin Works agency, or tribal governing body
14 may retain any amounts recovered under a program under this subsection and must
15 use the moneys retained to pay cash benefits to Wisconsin Works participants.

16 **SECTION 9.** 49.197 (2) (c) 1. of the statutes is repealed.

17 **SECTION 10.** 49.197 (2) (c) 2. of the statutes is repealed.

18 **SECTION 11.** 49.197 (2) (c) 3. of the statutes is repealed.

19 **SECTION 12.** 49.197 (2) (d) of the statutes is repealed.

20 **SECTION 9308. Initial applicability; Children and Families.**

21 (1) FRAUD INVESTIGATION RECOVERIES. The treatment of sections 20.437 (2) (g)
22 and 49.197 (2) (title), (b), (c) (intro.), 1., 2., and 3. and (d) of the statutes, the
23 renumbering and amendment of section 49.197 (2) (a) of the statutes, and the
24 creation of section 49.197 (2) (a) 1. of the statutes first apply to moneys recovered by

1 a county department, Wisconsin Works agency, or tribal governing body on the
2 effective date of this subsection.

3 (END)